



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 14, 1996

Mr. Ron M. Pigott  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR96-1874

Dear Mr. Pigott:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101336.

The Texas Department of Public Safety (the "department") received several requests for information regarding an investigation of a department officer convicted of aggravated sexual assault and one request for the "policy manual. . . regarding the performance, review and evaluation of [department] Officers and Personnel and the established procedures regarding standards of review for officers and personnel of the [department]." You assert that the requested information is excepted from required public disclosure under sections 552.101, 552.103, and 552.108 of the Government Code.

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; see *Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). We note, however, that information normally found on the front page of an offense report is generally considered public. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ *ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). However, when the information relates to a sexual assault or other sex-related offense, any information which either identifies or tends to identify the victim must be withheld under the common-law right of privacy and

section 552.101 of the Government Code.<sup>1</sup> Thus, with the exception of any information which either identifies or tends to identify the victim of a sexual assault or other sex-related offense, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. Section 552.108 provides that you may withhold the remaining requested information from disclosure, although you may choose to release all or part of the information at issue that is not otherwise confidential by law. Gov't Code § 552.007.<sup>2</sup>

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Todd Reese", with a long horizontal flourish extending to the right.

Todd Reese  
Assistant Attorney General  
Open Records Division

RTR/rho

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<sup>1</sup>Information is excepted from required public disclosure by a common-law right of privacy under section 552.101 if the information (1) contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person and (2) the information is not of legitimate concern to the public. *Industrial Foundation of the South v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). In Open Records Decision No. 339 (1982), this office stated:

In our opinion, common law privacy permits the withholding of the *name* of every victim of a serious sexual offense. See Open Records Decision No. 205 (1978). The mere fact that a person has been the object of rape does, we believe, reveal "highly intimate or embarrassing facts" about the victim and, in our view, disclosure of this fact would be "highly objectionable to a person of ordinary sensibilities." Although there is certainly a strong public interest in knowing that a crime has been committed, we do not believe that such interest requires the disclosure of the names of victims. Furthermore, certain other information, such as the location of the crime, might furnish a basis for identification of the victim.

Open Records Decision No. 339 (1982) at 2-3.

<sup>2</sup>As we conclude that you may withhold the remainder of the information under section 552.108, we do not address the other exceptions you have raised.

Ref.: ID# 101366

Enclosures: Submitted documents

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